

JONATHAN SELBIN (Cal. Bar No. 170222)
jselbin@lchb.com
MICHELLE LAMY (Cal. Bar No. 308174)
mlamy@lchb.com
LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111
Telephone: (415) 956-1000
Facsimile: (415) 956-1008

ELIZABETH A. FEGAN (admitted *pro hac vice*)
beth@feganscott.com
FEGAN SCOTT LLC
150 S. Wacker Drive, 24th Floor
Chicago, IL 60606
Telephone: (312) 741-1019
Facsimile: (312) 264-0100

Attorneys for Plaintiffs and the Proposed Classes
(Additional Counsel on Signature Page)

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

JOHN DOE 1, JOHN DOE 2, JOHN DOE
3, JOHN DOE 4, JOHN DOE 5, JOHN
DOE 6, JOHN DOE 7, JOHN DOE 8,
JOHN DOE 9, JOHN DOE 10, JOHN
DOE 11, JOHN DOE 12, JOHN DOE 13,
and JOHN DOE 14, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

THE UNIVERSITY OF SAN
FRANCISCO, ANTHONY N. (AKA
NINO) GIARRATANO, and TROY
NAKAMURA,

Defendants.

Case No. 3:22-cv-01559-LB

**PLAINTIFFS' STATEMENT OF RECENT
DECISION**

Plaintiffs John Does 1-14 respectfully submit this Statement of Recent Decision in further support of their Opposition to Defendants' Motions to Dismiss and University of San Francisco's Motion to Strike (ECF 114, "Opposition"). In their Opposition addressing the University of San Francisco's Motion to Dismiss, John Does 1-14 argue they plausibly allege a retaliation claim under

1 Title IX, where they engaged in a protected activity by complaining about the Coach Defendants’
 2 sexual misconduct and sex discrimination and were retaliated against for engaging in this protected
 3 activity. *Id.* at 20 of 36.

4 On June 13, 2023, in *Grabowski v. Arizona Bd. Of Regents*, No. 22-15714 (9th Cir. June
 5 13, 2023) (“Op.”), attached as Exhibit A, the Court of Appeals for the Ninth Circuit found that the
 6 plaintiff sufficiently pled a retaliation claim under Title IX where he alleged that he participated in
 7 protected activity by his and his parents’ reporting of sexual and homophobic bullying by his
 8 teammates to his coaches and team psychologist and that he suffered an adverse action when the
 9 coach defendants dismissed him from the track team and cancelled his athletic scholarships in
 10 retaliation. Op. at 21-22. The Ninth Circuit also reaffirmed the low threshold for retaliation claims
 11 at the motion to dismiss stage, noting that “Plaintiff’s retaliation claim is valid even though his
 12 discrimination claim is insufficiently pleaded. The protected status of a plaintiff’s alleged
 13 statements holds whether or not the plaintiff ultimately will be able to prove his or her contentions
 14 about discrimination.” *See id.* at n.5 (cleaned up).

15 WHEREFORE, Plaintiffs respectfully request that this Court consider the above recent
 16 decision and deny USF’s motion to dismiss Plaintiffs’ Title IX retaliation claim.

17 Dated: June 15, 2023

Respectfully submitted,

18 /s/ Elizabeth A. Fegan

19 ELIZABETH A. FEGAN (admitted *pro hac vice*)

beth@feganscott.com

FEGAN SCOTT LLC

150 S. Wacker Dr., 24th Floor

Chicago, IL 60606

Telephone: (312) 741-1019

Facsimile: (312) 264-0100

23 LYNN A. ELLENBERGER (admitted *pro hac vice*)

lynn@feganscott.com

FEGAN SCOTT LLC

500 Grant St., Suite 2900

Pittsburgh, PA 15219

Telephone: (412) 346-4104

Facsimile: (312) 264-0100

27 LING S. WANG (admitted *pro hac vice*)

ling@feganscott.com

FEGAN SCOTT LLC

121 N. Washington Ave, 4th Floor

1 Minneapolis, MN 55401
2 Telephone: (651) 432-4468
3 Facsimile: (312) 264-0100

4 JONATHAN D. SELBIN (Cal. Bar No. 17022)
5 jdselbin@lchb.com
6 MICHELLE LAMY (Cal. Bar No. 308174)
7 mlamy@lchb.com
8 LIEFF CABRASER HEIMANN & BERNSTEIN
9 275 Battery Street, 29th Floor
10 San Francisco, CA 94111
11 Telephone: (415) 956-1000
12 Facsimile: (415) 956-1008

13 JESSICA A. MOLDOVAN (*admitted pro hac vice*)
14 jmoldovan@lchb.com
15 LIEFF CABRASER HEIMANN & BERNSTEIN
16 250 Hudson Street, 8th Floor
17 New York, NY 10013
18 Telephone: (212) 355-9500
19 Facsimile: (212) 355-9592

20 *Attorneys for Plaintiffs and the Proposed Classes*
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